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INFO RUEHZA/WHA CENTRAL AMERICAN COLLECTIVE PRIORITY
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USTR:AMALITO/DOLIVER

E.O. 12958: N/A

TAGS: [CS](#) [ECON](#) [ETRD](#) [PGOV](#) [PINR](#) [PREL](#)

SUBJECT: CAFTA IMPLEMENTATION SNAPSHOT AS OF JANUARY 29

REF: A. SAN JOSE 00031

[1](#)B. 07 SAN JOSE 2070

[1](#)1. (SBU) SUMMARY: Focused on completing CAFTA implementing legislation, pro-CAFTA National Assembly (Asamblea) party leaders are hopeful regarding the passage of the legislation by the first vote before March 1. Yet, the odds are slim given the realities of the Costa Rican legislative process coupled with a constitutional review of many of the remaining eight bills. The prospect and method of requesting an extension heavily weighs over the CAFTA debate. Accordingly, there is speculation by government and business leaders of whether Costa Rica should even request an extension. The argument consists of three points: (1) Costa Rica can deposit notice with the OAS acknowledging a "work-in-progress"; (2) pressure must be maintained on the Asamblea; and (3) the GOCR can sidestep the perceived unpleasant process of negotiating extension agreements with its CAFTA partners, specifically Nicaragua. Though interesting discourse, Post consistently expresses the position that March 1 signifies the completion of the legislation and USTR certification. Costa Rican speculation highlights the need to delineate a USG position with an explanation of the USG role at the time of an extension request. END SUMMARY.

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LEGISLATION MOVING: IS FAST TRACK FAST ENOUGH?
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[1](#)2. (SBU) With fast track rules in place, the pro-CAFTA G38 coalition continues to move forward on the implementing legislation. Faction chiefs Mayi Antillon (PLN), Lorena Vasquez (PUSC) and Luis Antonio Barrantes (ML) are all hopeful; they expect the Asamblea to approve (by first vote) as many as six items of legislation by the end of February. The G38 leaders attribute their progress to three factors: (a) a general sense, even in the anti-CAFTA legislators, that the Asamblea (and the nation) need to get beyond CAFTA to other key initiatives, (b) the new public relations campaign against the opposition PAC party and its renowned obstructionist tactics, and (c) the fast track rules themselves, which limit the number of sessions for debate, even when hundreds of amendments are on the table. With fast track, Antillon notes, the legislators can see the light at the end of the tunnel. Despite the optimism of recent weeks, several renegade G-38 legislators appear to be using their CAFTA support as a bargaining chip in exchange for GOCR backing of "home-district" projects. As for PAC, the PUSC and ML are gleefully taking credit for an inspired PR stunt, in which they held an impromptu press conference on January 8 featuring a wheelbarrow stacked high with amendments offered by the PAC-led opposition. Coupled with a GOCR-organized,

private sector-funded media campaign to get CAFTA done, the PAC has been less problematic, according to Vasquez.

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LATEST SCORECARD

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13. (SBU) Even with this new "dynamism," progress is still slow. Since our last scorecard (Ref B), two bills (the UPOV law and Budapest Treaty) have passed their first plenary reading and been transmitted to the Supreme Court's Constitutional Chamber (Sala IV) for review. (On the former, PAC members exercised their right to ask for this review, which was not required in this case, illustrating that they have not given up, yet.) A second bill (opening the insurance sector) moved from committee to the Plenary. The tally as of January 29:

To be introduced:	1
In Committee	0
In Plenary debate	5
In Mini-Plenary debate	2
Under Sala IV Review	2
Fully approved	2

Of the seven bills in the plenary and mini-plenary, five have fast track status.

14. (SBU) Legislation in the mini-plenary has a "special" fast track status which means this legislation is expected to move through the Asamblea faster than legislation in the plenary. As for the bill yet to be introduced (an amendment to the copyright law), it has been purposely held back in order to add amendments, if necessary, for IPR issues that may be undermined in other CAFTA related IPR legislation currently tracking through the Asamblea, according to COMEX representatives in Washington.

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MARCH, NO; APRIL OR MAY, MAYBE

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15. (SBU) The G38 optimism remains tempered, however. None of the faction leaders see all the CAFTA legislation being completed by March 1. All three tell us that April or May is more likely, considering that the PAC probably will send every item to the Sala IV for review, adding as much as 30-days to the timetable. Vasquez acknowledges some weakness within her own PUSC faction, where one legislator -- more loyal to the party's anti-CAFTA leadership than to the pro-CAFTA PUSC caucus in the Asamblea -- has missed sessions (and blocked quorums) in pursuit of his own agenda. She, Antillon and Barrantes agree that the hard core opposition may heat up when universities resume classes in February. The G38 leaders also expect the political maneuvering (now underway) for the Asamblea's internal elections May 1 may also slow progress on legislation. Antillon has already announced that she will not run again to lead the PLN bloc. Vasquez and Barrantes may stay on, however.

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THE "PARTIAL CREDIT" SCENARIO

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16. (SBU) Meanwhile, the Arias administration is apparently mulling over next steps. In a private conversation with the DCM on January 17, President Arias wondered aloud if Costa Rica could deposit its instrument of ratification with the OAS prior to March 1, as a commitment to CAFTA implementation, while continuing to push ahead on the legislation. In similar fashion, businessman Carlos Denton opined in La Republica on January 23 that the Asamblea should just continue to work without a GOCR request for an extension since this would avoid brokering extension agreements with the CAFTA countries while maintaining pressure on the Asamblea. Besides, he wrote, Costa Rica is already a part of CAFTA.

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WHEN TO ASK...NOW OR LATER?

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17. (SBU) In the Ambassador's farewell call on January 21, Minister of Finance Guillermo Zuniga asked for an explanation of what would happen if the implementing legislation was not passed and for advice on talking to partner countries. The Ambassador quickly pointed out that Costa Rica was not in CAFTA and it was late. But, the USG wanted Costa Rica in CAFTA hence, the more legislative progress the better. He then described how CAFTA was similar to a partnership, and therefore Costa Rica should talk to a representative of the partnership, not to individual partners. Whether the issue is the extension or with whom to negotiate the extension, the Ambassador's concluding advice was consistent: call USTR. The common theme connecting the President's thinking, Denton's opinion, the Finance Minister's questions, and COMEX Minister Ruiz's extension questions to the Ambassador in early January (Ref A) is when, and then how, to proceed with an extension request. Clearly, the GOCR is gripped with when to make the formal extension request as it hedges the timing of such a request against legislative momentum and progress.

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COMMENT:

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18. (SBU) Although USTR will ultimately have to make the determination, it appears that Arias, and Denton's "partial credit" approach falls short of certifiable compliance. Their musings are all the more reason we should be ready, when the EIF extension request comes, to delineate the USG position and explain the USG role. As for the Asamblea, if the G38 discipline continues to hold, then the legislators will have accomplished more since December (albeit too late to meet the EIF target) than the previous legislature did in four years. We hope their experience will provide important lessons in more effective governance, but any wisdom gained may be short-lived. Once the implementing legislation has been completed, we expect the G38's unity will begin to fracture, as all parties start their open jockeying on other priority legislative issues, for party leadership (elections on May 1), and for the 2010 national elections.

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